

1/24/2020

JAN 31 2020

To Zoning Board Members:

BROOKINGS
COUNTY DEVELOPMENT

We have heard that we, citizens of Alton Township, will not be able to voice our concerns regarding Tom Davis's gravel pit proposal since the proposal discussion has been tabled for the February meeting (according to protocol). Therefore, we wanted to send you this document as we were unsure if any documentation would be given to board members if we sent it to the zoning board office.

The following information below will be of interest to you as a zoning board member as there are many items of concern, items that were not only mentioned at the January meeting but also past decisions that are documented related to situations like Davis's proposal as well as policies mentioned within the county that relate to this proposal. In addition, we believe you will be surprised at the some of the manners regarding how this proposal is being handled thus far.

We first want to remind the board of a meeting that took place on November 6, 2014. During that meeting, the zoning board denied Mr. Alex Kahler of allowing him to have a Home Extended Business because of some light traffic that would come to his acreage, ½ mile off Highway 14 because it *could cause excessive road damage*. According to records, "The Alton Township is opposed to the reconsideration of 2014cu010 for Alex Kahler, as it would *cause additional wear and tear on the township roads* along with winter maintenance (even though Kahler agreed to take care of this himself) which would result in more dollars spent of which Alton Township could not afford. Chair Robbins called for a roll call vote: Rochel-nay, Nelson-aye, Kleinjan-nay, Jones-aye, Elenkiwich-aye, Davis-nay, Erickson-aye, Yseth-aye and Robbins-nay. 5-ayes and 4-nays, motion failed." With this precedence how could the zoning board approve a proposal for gravel trucks on these same road that were of concern in 2014. Kahler will have every right to come back and question why his 2014 proposal was denied versus this proposal approved. As a reminder, with this proposal, Davis's pit will be using a minimum of 7,500 trips each year. Kahler only requested a few trucks (i.e. UPS, FedEx, etc.) a day as well as some employee cars for his business proposal. Davis's proposal will have more trucks traveling the road and the gravel trucks will weigh substantial more than fore mentioned delivery trucks.

Next, the reminders....

Safety----who will be held liable for accidents when they occur? Deaths? When property is damaged? There are many blind spots where these trucks propose to, the gravel roads are not meant for this level of traffic nor are they meant for two trucks to pass each other on said roads. Children are present, school busses are running in certain areas, and the upkeep of the roads is going to be impossible. It is not a 1-year agreement for safety issues, it's a long-term agreement that will affect the safety of generations of families in the next 30 years.

Road damage---our township roads cannot handle this amount of traffic. There are washboards, drop offs, and other issues due to the flooding and excessive wear already.

Excessive dust---it will affect crops, it will affect respiratory issues with not only humans but with livestock. Davis promised to put dust control in front of affected acreages, however, what about when trucks come different directions? Also, the most common dust control agent, magnesium chloride, causes somatic issues, respiratory depression and chemical kills vegetation alongside the road. The unpaved road may become slippery when wet if clays are present and the unpaved road can become a slippery mess during spring thaw. These are the roads that children will be biking on or walking on to catch a school bus. Area residents will be walking on for exercise purposes. Lastly, the amount of road dust will be accumulate on crops nearby which will affect the crops such as attracting harmful pests and too much dust on your plant leaves can make it difficult for the plants to absorb light and properly photosynthesize .

Herein begins our other concerns:

Davis has an issue with building a road to the east of the proposed gravel pit, on his own land, to reach the paved county road to the east because of the cost it would take to build the road. This should not be the zoning board's concern as it should not make any difference. This should not be a concern of the township people either. By building their own road, on their property, to reach the county road would ease some of our concerns.

Davis's new proposal will state that all trucks will go north from the pit and that video cameras will be in place so any trucks going to the south will be captured. Where and how many will be installed? At all roads going every direction? At whose cost? What about warning lights on stop signs? Who will continually pay for the maintenance of those? What if trucks decide to take alternate routes? And most importantly, who will ENFORCE this now, a year from now, ten years? Realistically, this cannot be monitored and enforced. If Tom had his own road to the paved road to the east, many of these would dissipate as it would be the only way in and out of the pit, it would be their own road maintenance, and the primary safety issues would be somewhat resolved.

Please review Bowne's attachment. He owns and operates his own gravel pit so is fully aware of the weights of loaded trucks, numbers of trucks, etc. recorded on this document. Within this document, he put the minimum number expected, there could be many more hauling out of the pit. Also, the minimal 7,500 trips each year of gravel does not take into account the crushing proposal, only gravel. Therefore, the trucks could be loaded coming back and forth to the pit and/or even doubling the trips since it encompasses now two forms of business, not just one. That is a lot of weight coming and going on any type of gravel road, township or county.

In addition, if this proposal is passed as is, and there is an ordinance regarding paved roads and CAFOs (Concentrated Animal Feeding Operations), the board may have many issues later on with anyone wanting to build a CAFO on township roads as they'll come back to the board stating that you approved this proposal.

In addition, we want to remind you of some other items that are documented within county documents...

According to ARTICLE 22.00 CONCENTRATED ANIMAL FEEDING OPERATION Section 22.01. Concentrated Animal Feeding Operation Regulations. Page 18, letter B. The County Zoning Commission may impose, in addition to the standards and requirements set forth in these regulations, additional conditions which the County Zoning Commission considers necessary to protect the public health, safety and welfare.

How is this any different? There will be at least 5-10 x the amount of trucks than several CAFOS put together.

According to BROOKINGS COUNTY CONDITIONAL USE PERMIT REQUEST - 2013CU0 11 1 of 5 CONDITIONAL USE PERMIT REQUEST - STAFF REPORT Prepared by Meghan Thoreau, Deputy Director for the Regular Meeting of the P&Z Commission OFFICIAL FILING DATE: 3 September 2013 APPLICANT(S): Tracy Johnson, ET AL REQUEST: Conditional use permit (2013cu011) is requesting approval to expand upon an existing Beef Cattle CAFO from a Class C (up to 999 head/animal unit) to a Class B (up to 1,999 head/animal unit.) Current CAFO has 999 head/animal units and the applicant is proposing an additional 500 head/animal unit. This is a permitted conditional use within the agricultural zoning district. LOCATION: 19736 465TH AVE, Bruce, South Dakota. On page 4 of 5, the road providing access to the property is adequate to meet the transportation demands of the proposed conditional use.

Brookings County requires a written road use agreement with any affected township or other governmental unit regarding the upgrading and continued maintenance of any road use for the conditional use requested prior to issuance of a conditional use permit. Requirements: ensure a road use agreement has been reviewed, filed, and accepted by all affected jurisdictions/entities if applicable, it is recommended that the agreement document existing conditions of the road providing access and clear parameters for providing maintenance of said roadway. Sherman Township people were not notified of anything but yet their chairperson made a major decision without consulting with the entire board or holding a meeting to discuss it further. According to the township lawyer, he stated that the chairperson can make road agreement decisions, however, this was too large of a project and should have been discussed at a meeting. Sherman Township people have also not had opportunities to voice their concerns at the zoning board because they have not been notified that this pit could now directly affect their township roads since the new proposal states that all trucks will go north. Davis has also asked the Alton Township board members to sign off without holding a Township meeting....the township board that HE IS A PART OF and is the CHAIRPERSON for. At this time, Alton board members have not signed off on anything and no township meeting is scheduled.

Next, please review Section A, number 1 of the website below----having excessive trucks constitutes as a public nuisance as it states a public nuisance is anything that "...annoys, injures, or endangers the comfort, repose, health or safety of others." These gravel trucks would annoy, impede, and endanger us. <https://www.brookingscountysd.gov/DocumentCenter/View/54/2009-02---Amendment-and-Revision-of-Ordinance-2001-02-Public-Nuisances?bidId=>

All quotes below have been taken from:

http://www.capx2020.com/Regulatory/State/South_Dakota/App_D-GRE_Brookings_South_Dakota_Permit_112210.pdf--- Even though mining of gravel is considered an agricultural division within a zoning board document, it should not interfere with other agricultural aspects already in place.

"Finally, the plan emphasizes the importance of long-term agricultural use by seeking to minimize interference with farming activities and discourage premature development, which leads to costly and inefficient public expenditures." (impacts crops and roads)

"It is important for the Brookings County Planning Commission, County Commission and local township governments to have farmers continue to operate their farms and remain on the land. Any growth in the non-farm population will continue to make it more difficult for farmers to improve efficiency and effectiveness of agricultural operations." (impacts crops, roads, and safety)

"Secure and preserve sufficient rights-of-way for future arterial and major collector traffic routes. Coordinate plans with communities in the development of a network of arterial and collector roads that promote efficient traffic movement..."

"To maintain a viable agricultural economy and preserve the rural quality of life."

"Protect the rural area from uses which interfere with and are not compatible with general farming practices. Recognize and improve upon regulations which have a negative impact on farming operations."

"Regulate concentrated animal feeding and processing operations to protect environmental quality and minimize conflicts with human activities."

"Drainage, air quality, noise, and other environmental factors will be considered for their impacts on neighboring property."

Policy 3 - Supporting Policies. "The preservation of agricultural production practices should be a priority consideration in land use decisions. In situations where permission is needed and the situation warrants an evaluation, the county will rely upon both technical sources and public input in making decisions."----Will Sherman Township people have an opportunity to voice their concerns since it directly affects their township roads now?

Davis promised to cut a hill down on a Sherman Township road and have it widened. This is what Troy Murphy signed, saying it was okay to do this. Has this area been surveyed? Have all land owners approved this? Has an environmental study been done as this is considered a flood plain and could impact water flow, land, etc. Has the state been notified, seeing if this can even be done? How can Sherman Township sign off when this has not been approved and verified by the state and everyone involved? Who will make sure the ditch slope is adequate? Or that the road is built adequately for these trucks? What about if the fence lines are rebuilt and are in appropriate spots? This proposal cannot damage or change things if it will affect someone else. In addition, who is paying for this? Are Sherman Township people aware that this will cost their township money now and in the future? How can an agreement like this be signed when all these factors were not in place first?

"Commercial and Industrial development projects should take place in designated industrial parks or already developed highway locations." Even though mining of gravel is mentioned as being part of the agricultural district, mining of any material is considered industrial (SEE BELOW).

*Primary **industry** involves getting raw materials e.g. **mining**.* Taken from:
[Industry Theory - Internet Geography - Learn on the Internet](http://www.geography.learnontheinternet.co.uk)
www.geography.learnontheinternet.co.uk > topics > industrytheory

In addition, crushing of products is also an industrial component, therefore industrial rules should be followed for both of these items, correct? (see below)

According to county policies....COMMERCIAL/INDUSTRIAL --- Adjacent to county and state highways • Rail access for industrial uses • Controlled access onto major highways • Adequate buffering from neighboring uses • Hard surfaced driveways and parking areas.

According to a retired SD DOT engineer, "The highway should be capable of the industry that would utilize the roadway. Due to the number, and weight of the trucks, the roadway, although developed, is not developed for the industry for which they intend to use it for. We compare it to a location where they build an ethanol plant. The adjacent roads are typically reconstructed and hard-surfaced to handle the traffic. The roads they intend to use are not adequate for the purpose in which they intend to use them. Either build a new road or rebuild and hard-surface the existing. The gravel roads are simply connectors, not minor arterials."

Novita had to build a hard surfaced road and could not utilize the gravel roads around them for their purposes, and this deals with LESS TRAFFIC than this proposal would.

Other variances and proposals within Alton Township have had to make substantial and very expensive changes to their plans to make sure others were satisfied. Davis verbalized his opinions and wishes with these proposals and the changes were made. Yet, the request for Davis to build his own road to a paved, county road will not be made because of cost. What would stop these other entities to come back to the board asking why they had to make such major accommodations when they did not affect township tax dollars, safety, crops issues, or road conditions, like this proposal will in the future?

Following are some informal comments coming from a gravel truck driver...."I will pick which way I want to go if it saves me time and gas money." In other words, Davis can say that the trucks have to use

certain roads, but in reality, it is not going to happen and who will enforce it? Will a project stop because Tom warned a driver and then told them they cannot haul from the pit anymore because they are not following the rules? The project has to be completed and the drivers will continue to haul.

According to an article in the Brookings Register, townships do not have money to fix the roads that are in poor conditions now. What if we have another bad spring? What if we get excessive rain during the summer months when these trucks will be going full force?

We hope you realize there are SERIOUS issues if this proposal is approved. We understand that an appeals process would be our next step. However, after looking at the documentation present and this proposal (if it is accepted), the board will have more problems, not only now, but in the future.

We do not have an issue with Davis opening the gravel pit---it is on his land and he has the right to do what he wants with it. He has brought to you many provisions that he would be willing to do. What we do have issues with are the concerns mentioned above. In addition, Davis is not telling people the potential amount of traffic and that he is not going through appropriate procedures by communicating with the township people appropriately and having the townships meet. In addition, Davis gave everyone false information at the last zoning board meeting when he stated that the superintendent of highways gave him verbal approval for the use of the roads and that the bridge on a nearby minimum maintenance road would probably be replaced within a 3 year time period. After speaking with the superintendent himself and with his secretary, who was present and a witness to the meeting with Davis and Sterzinger. The highway superintendent and secretary both stated that the superintendent never gave any type of approval to anything and that he specifically said he would have to go through the County Commission first before making any decisions such as the ones mentioned.

We hope that you put yourself in our shoes and realize this is not a good decision or proposal to approve without major provisions. In addition, before the board approves this, Davis's promises and provisions are documented and legal binding so that he has a contract with expectations to live up to and he must follow the documented provisions in the contract for the life of the gravel pit.

We all live on acreages and/or family farms in this township. We thought that our decisions to live where we are were good ones as the only traffic that goes by is for agricultural usage or individuals who are driving around in the country. We decided to stay to raise our children to possibly become future farmers, etc. Our acreages and farms were here first, not this proposal.

The opening and operating of this gravel pit is an industrial business in an agricultural division. Again, it should not be the board's concern about how much money it will take to build a road to the east but rather thinking about what this proposal means now and how detrimental it will be for all of us who live on farms and acreages. The proposed gravel pit is his business and the other residents of Alton Township we should not have to subsidize access to the pit with our tax dollars and/or change our lives. This will not be a one year agreement, it is a long term agreement that will affect generations of families in the next 30 years.

Many individuals in the Alton Township are not happy with this proposal. We are sending this letter to the board members, but not to Davis, as it would be a conflict of interest with him being on the board. Davis should not have access to this information prior to the meeting or be given special consideration being that he is on the board. As any public figure, he would need to answer the questions at the meeting, not prior to the meeting, so that he has time to form a rebuttal. The public does not get that option, so Davis should not either.

If he builds a road to the east of his pit, on his own land, to the paved county road, we believe most of these concerns would be resolved.

Alton township individuals who have signed below agree to and have contributed to this document in various ways.

Darryl Wipf
Jonathan Wipf Jr.
~~Ed Wipf~~
Jonathan Wipf SR
Annie Wipf
Lawrence Wipf
Leon Wipf
Alma S. Wipf
Jonah Wipf
Alma Wipf D.
Becky Wipf
Laura Wipf

John Wipf
Doris Wipf
Dalia Wipf
Dennel Wipf
~~Robert Kauton~~
John R. Kauton
M. Wipf
Joe Bremer
Judy Hommen
~~Wendy Wipf~~
Ben Wipf
Jeff Pester
Olympe Pester
V. Wipf
D. P. Lufkin
Karen S. Langford
Joseph Schaefer
Cecilia Schaefer
Wendy Wipf

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Alton township individuals who have signed below agree to and have contributed to this document in various ways.

Bob M. Borne

Charles M Borne

[Signature]

Kathy Lutz

Dot & Borne

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Dalmacia P. Johnson

Sandra K. Hanson

Leonard L. Henneman

Donald W Lutz

[Signature]

Jane L. Clapper

Jeff Clapper

Ally Borne

Attachment: Dale Bowne's Letter to Zoning Board Meeting (January 2020)

This document discusses the road usage with 80,000 Tons of gravel per season.

If a gravel pit sells 60,000 Ton of gravel and a semi typically weighs 80,000 loaded or 30,000 empty, hauling 25 Tons, that means that they will be making approximately 2400 trips loaded and 2400 trips unloaded, equating to 4800 total round trips.

If 20,000 Tons goes out on smaller dump trucks, approximately weighing 50,000 pounds each, hauling 15 Tons, that equates to 1,333 trips loaded or 2,666 total round trips.

These gravel roads cannot handle the weight and they cannot handle the number of trucks that will be driving on them. With the information and data I just provided you above, there will be a total 7,466 trips on these gravel roads with these large trucks EACH year.

In an 8 month season, with 22 days per month, that equals 44 trips per day or 5.5 trips per hour or a truck every 11 minutes. That is a lot of road and bridge usage and a lot of dust. The township roads are NOT meant to meet large trucks on them. This leads to safety issues, road issues, and more.

The hauling doesn't stop due to rain or other weather conditions. This is just an example of 80,000 Tons of gravel per season. There will be years where more gravel will be sold which heightens the numbers even more.